

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ashley Helaudais	Team: Team # 2	CCRB Case #: 201307215	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 08/02/2013 4:00 PM	Location of Incident: North Shore LIJ § 87(2)(b) Hospital	Precinct: 104	18 Mo. SOL 2/2/2015	EO SOL 2/2/2015	
Date/Time CV Reported Sun, 08/04/2013 6:18 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/08/2013 4:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Ku	20058	951890	104 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Charles Choi	1653	922110	104 PCT
2. POM David Babayev	22384	929425	104 PCT
3. POM Richard Shubella	08048	952235	104 PCT
4. POM Geraldo Gonzalez	25561	950517	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Ku	Force: PO Jonathan Ku used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 4, 2013, § 87(2)(b) filed the following complaint with IAB, generating IAB log number 13-33596. § 87(2)(b) was arrested on August 2, 2013 by PO David Babayev and Sgt. Charles Choi, and taken to the § 87(2)(b) Hospital in Queens by PO Gerald Gonzalez and PO Richard Shuebella at 2:20 p.m. for injuries received prior to her arrest. PO Shuebella stayed with § 87(2)(b) at the hospital until he was relieved by PO Jonathan Ku at 4:00 p.m. The following allegation resulted from this incident:

- **Allegation A –Force: PO Jonathan Ku used physical force against § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. She is a 5'2" tall, 200lb woman with brown eyes and black hair.
- § 87(2)(b)

Personal Injury Photos

§ 87(2)(b) provided four photographs taken on August 5, 2013, by a friend using a cell phone (encl. 5F-5M). These photographs depict large bruises or discoloration on § 87(2)(b)'s left arm, and a small bruise on § 87(2)(b)'s right breast. There is no bruising visible on § 87(2)(b)'s face or her right arm.

Statements to Medical Personnel

On § 87(2)(b) § 87(2)(b) told staff at § 87(2)(b) Hospital that she had been punched in the face and had fallen to the ground. On § 87(2)(b), she told staff at § 87(2)(b) Hospital Queens that she had been beaten up three weeks prior, but did mention any altercation with police officers. On § 87(2)(b) she told Dr. § 87(2)(b) that she had been assaulted by a male/female couple. Dr. § 87(2)(b) also noted "a second episode of fall while in the x-ray department of the hospital."

CCRB Statement

§ 87(2)(b) provided phone statements on August 12, 2013 (encl. 5A) and August 22, 2013 (encl. 5O) and was interviewed via phone on August 20, 2013 (encl. 5B-5E). § 87(2)(b) additionally wrote down a statement in her paperwork for Dr. § 87(2)(b), dated § 87(2)(b) (encl. 5V), and provided Dr. § 87(2)(b) with an undated statement written on several notebook pages (encl. 5P-5U). Her statements were all consistent unless otherwise noted below.

On August 2, 2013 at approximately 2:16 p.m., § 87(2)(b) was in her van, which was parked on 62nd Road, across the street from her home, § 87(2)(b) in Queens. She had just started her van when two neighbors, identified by § 87(2)(b) as § 87(2)(b) § 87(2)(b) and by the investigation as § 87(2)(b) and their German Shepard approached § 87(2)(b) and began arguing with her.

§ 87(2)(b) hit § 87(2)(b) in the face repeatedly, so she flew and slid on the ground. Her cheek hit a manhole cover, and left indentations of the manhole cover in her face. § 87(2)(b) went

to § 87(2)(b) house to offer her money, and § 87(2)(b) grabbed § 87(2)(b) by the hair and threw § 87(2)(b) against the stoop. While § 87(2)(b) had § 87(2)(b) between her legs, § 87(2)(b) pushed her open hand into § 87(2)(b) face. § 87(2)(b) did not know what injuries she suffered from § 87(2)(b) and § 87(2)(b) attack, but said that hair had been ripped from her scalp and that she believed her cheek bone was broken. The police arrived and asked § 87(2)(b) if she was hurt. They then asked her to go into the ambulance so they could take her to the hospital. § 87(2)(b) was subsequently arrested.

PO Richard Shubella, identified through the investigation and described as a, 6'2"-6'4" tall, Asian man in his thirties, with a husky build, brown eyes, black hair and a clear complexion, rode with § 87(2)(b) to § 87(2)(b) at § 87(2)(b) § 87(2)(b) thought the officer's name was "Doi". She did not know what time they arrived at the hospital, but said that the nurse gave her some water and Motrin. § 87(2)(b) later stated that the hospital did not give her any pain killers or take her vitals. § 87(2)(b) was then taken to get x-rays. Sometime prior to this, PO Jonathan Ku arrived at the hospital to relieve PO Shubella.

§ 87(2)(b) stood handcuffed with PO Ku at the nurse's station for a half an hour, waiting to be picked up by another police officer. PO Ku stood behind her. There was a wall in front and to the right side of her, and a medical cart in front of the wall. § 87(2)(b) did not know how far away the medical cart was from her.

§ 87(2)(b) repeatedly asked PO Ku to loosen the handcuffs one notch in a voice quieter than a normal speaking voice, and weak. PO Ku put his right hand under § 87(2)(b)'s left armpit, lifted her a foot into the air, flipped her over and threw her forward. § 87(2)(b) bounced off the medical cart into the wall. Her right arm, breast and rib area hit both the medical cart and the wall. § 87(2)(b) said that she actually flew through the air, and described the throw as a Chinese, Kung-Fu type of move. § 87(2)(b) could not get up off the floor, because her back was out and her legs were numb. She said that she suffered pain in her neck, feet and arms. In § 87(2)(b)'s dated statement to Dr. Reznick, she stated that she landed on her knees. However, in the undated statement she noted that she landed on her right side.

§ 87(2)(b) suffered a dislocated shoulder and a broken rib from being thrown by PO Ku. She was not given additional medical care at the hospital. PO2, who § 87(2)(b) said she could not describe if she saw him again and who remains unidentified, came to pick-up § 87(2)(b) and PO Ku from the hospital, and took them back to the 104th Precinct stationhouse. § 87(2)(b) was later released on a desk appearance ticket.

Attempts to Contact Civilians

Four individuals were listed in § 87(2)(b)'s medical records and § 87(2)(b) Hospital provided a list of eighteen additional people who were working in the Emergency Department at the time of the incident. The undersigned investigator spoke with twenty of total twenty-two people. None of them remembered § 87(2)(b) or recalled any incidents involving a patient and police officers. § 87(2)(b)

§ 87(2)(b) did not remember anything about the date of the incident. § 87(2)(b) .. could not remember if they were assigned to work inside the Emergency Department on § 87(2)(b) § 87(2)(b) stated that they do not see patients, only read x-rays. § 87(2)(b) stated that though she did not remember the incident, she would have known had it occurred, because she is the nurse manager. § 87(2)(b) stated that she worked on § 87(2)(b) but did not remember anything. § 87(2)(b) is a transporter and stated that he would have been in and out of the Emergency Department all day. § 87(2)(b), a nurse who works nights at the hospital, recalled a conversation he had with § 87(2)(b) about a patient wanting to file a complaint against a police officer in the summer of 2013. § 87(2)(b)

was contacted, and he did not recall such a conversation, § 87(2)(b) or any patient wanting to file a complaint against a police officer. The investigator was unable to speak with either § 87(2)(b). Between January 22, 2014 and February 28, 2014 two letters each were sent to § 87(2)(b), and numerous calls were placed to § 87(2)(b) Hospital. As of the writing of this report, § 87(2)(b) have failed to contact the CCRB.

NYPD Statements:

Subject Officer: PO JONATHAN KU

- *PO Ku was § 87(2)(b) at the time of this incident. § 87(2)(b)*
- *On August 2, 2013, PO Ku worked from 3:00 p.m. to 11: p.m. He was assigned to a hospitalized prisoner and working alone. PO Ku was working in uniform and was working on foot.*

Memo Book

At 4:00 p.m., PO Ku relieved PO Shubella, who was with a hospitalized prisoner at § 87(2)(b) Hospital. At 6:18 p.m., PO Ku transported a female prisoner to the 104th Precinct stationhouse in RMP 3493, which had 41540 miles. At 6:38 p.m., PO Ku arrived at the 104th Precinct stationhouse, and the RMP had 41545 miles (encl. 6C-6E).

CCRB Statement

PO Ku was interviewed at the CCRB on February 11, 2014 (encl. 6F-6G).

At approximately 4:00 p.m., PO Ku went to § 87(2)(b) Hospital to relieve PO Richard Shubella, who was assigned to hospitalized prisoner, § 87(2)(b) PO Shubella and § 87(2)(b) were inside one of the patient rooms when PO Ku arrived. PO Ku did not know why § 87(2)(b) was at the hospital. He did not observe any injuries on § 87(2)(b) and § 87(2)(b) did not complain of any injuries. § 87(2)(b)'s demeanor was normal when PO Ku first arrived. PO Ku did not remember if § 87(2)(b) had shackles on her ankles.

As they were in the main hallway of the emergency room, waiting for a vehicle to transport them to the 104th Precinct stationhouse, § 87(2)(b) began to become irate, which PO Ku describes as squirming and yelling that the handcuffs were too tight. PO Ku checked them by sticking a finger between § 87(2)(b)'s wrist and the edge of the handcuff. The space was big enough to fit his finger, which is considered the standard for handcuff tightness. § 87(2)(b) continued to complain, though her complaining was limited to the tightness of the handcuffs.

§ 87(2)(b) then began to move around and started to walk away, so PO Ku grabbed her arm. PO Ku did not remember which hand he used or which of § 87(2)(b)'s arms he grabbed. § 87(2)(b) then began to pull away, and PO Ku locked § 87(2)(b)'s arm into his arm, meaning that he slid his arm through the opening made by one of her handcuffed arms. They were by a wall, and PO Ku held § 87(2)(b) against the wall to maintain control over her. He did not remember what part of her body made contact with the wall. This was the only force PO Ku used with § 87(2)(b). PO Ku held § 87(2)(b) until she calmed down, what he estimated to be a couple minutes. PO Ku did not pick up § 87(2)(b) and throw her. He did not observe § 87(2)(b) fall or her body make contact with the ground, and could not remember if her body made contact with a medical cart. PO Ku did not observe any other officer pick-up and throw or use any other force on § 87(2)(b).

An officer came to pick them up at 6:18 p.m. after about ten minutes of waiting, though PO Ku did not remember who picked them up. § 87(2)(b) did not complain of any injuries at this time, and PO Ku did not observe any injuries on her. § 87(2)(b) was still behaving irately by complaining and yelling, and continued to do so after they got to the stationhouse. They arrived at the stationhouse at 6:38 p.m.

Witness Officer: PO RICHARD SHUEBELLA

- PO Shubella was § 87(2)(b).
- On August 2, 2013, PO Shubella worked from 7:05 a.m. to 4:40 p.m. He was assigned to patrol sector H/I/J and working with PO Geraldo Gonzalez. PO Shubella was working in uniform and assigned to marked sedan, number 5310.

Memo Book

At 2:15 p.m. PO Shubella received a call for a 10-34, or assault in progress, with a knife at Fresh Pond Road and 64th Road. At 2:20 p.m., PO Shubella arrived at Fresh Pond Road and 64th Road. At 2:40 p.m., as per Sgt. Charles Choi, PO Shubella took the prisoner to the hospital in § 87(2)(b) for an injury to her left elbow. At 4:10 p.m., PO Shubella was relieved by PO Jonathan Ku at § 87(2)(b) Hospital (encl. 7C-7F).

CCRB Statement

PO Shubella was interviewed at the CCRB on January 29, 2014, and his statement is consistent with that of PO Ku unless otherwise noted below (encl. 7G-7H).

PO Shubella and PO Gonzalez escorted § 87(2)(b) to § 87(2)(b) Hospital for physical injuries. PO Shubella rode in the ambulance with § 87(2)(b). PO Shubella did not remember who handcuffed her, but said it was not himself. § 87(2)(b) did not have on leg shackles. PO Shubella said that § 87(2)(b) was confused and did not understand what was going on. § 87(2)(b) was crying one minute and upset the next, and said that she was the one who had been attacked. PO Shubella did not observe any injuries on § 87(2)(b) and stated that she did not complain of any injuries.

They arrived at the hospital at 2:40 p.m. PO Shubella did not put leg shackles on § 87(2)(b). PO Shubella did not go with § 87(2)(b) to the radiology department. § 87(2)(b) was confused the whole time PO Shubella was at the hospital with her. While at the hospital, PO Shubella did not observe any injuries on § 87(2)(b) outside of the left elbow injury, and § 87(2)(b) did not complain of any other injuries. PO Joseph Ku arrived and relieved PO Shubella at 4:10 p.m. PO Ku was alone. PO Shubella did not observe PO Ku's interaction with § 87(2)(b).

PO Shubella did not pick § 87(2)(b) up and throw her, nor did he observe any officer throw § 87(2)(b). He did not use any force on § 87(2)(b) and did not observe any officer, at the scene or hospital, use force against § 87(2)(b). § 87(2)(b) did not fall or make contact with a medical cart while PO Shubella was with her at the hospital. § 87(2)(b) became uncooperative at one point, repeatedly asking why she had to go into a room and resisting going into the room, but offered no physical resistance. § 87(2)(b) was never in leg shackles or any additional restraints while PO Shubella was with her.

Additional Officers Interviewed

Sgt. Charles Choi and PO Geraldo Gonzalez of the 104th Precinct were interviewed at the CCRB on January 28, 2014 and January 15, 2014. Both had entries in the memo books responding to the dispute involving § 87(2)(b). They confirmed that she was transported for injuries she incurred during her dispute. However, neither was present during the interaction with PO Ku (encl. 8F-8G and 9I-9J).

Medical Records

§ 87(2)(b) Hospital

On § 87(2)(b), § 87(2)(b)'s primary complaint is listed as left elbow pain. Also noted is pain to left arm, neck, knees, back, chest and right breast at 3:35 p.m., before the incident. She was diagnosed with chest and elbow contusions, neck strain and abrasions. All x-rays were negative. § 87(2)(b) was prescribed with Ibuprofen.

§ 87(2)(b) **Hospital**

On § 87(2)(b), § 87(2)(b) was treated primarily for rectal bleeding. A physical exam was completed and noted that § 87(2)(b) had full range of motion without pain, and that her head and neck were not tender and she experienced no pain.

§ 87(2)(b)

§ 87(2)(b) Dr. § 87(2)(b) referred § 87(2)(b) to Dr. § 87(2)(b) and Dr. § 87(2)(b)

§ 87(2)(b)

On § 87(2)(b) Dr. § 87(2)(b) diagnosed § 87(2)(b) with strain to spine and shoulders and contusions to the knee. X-rays of ribs were inconclusive. Dr. § 87(2)(b) also noted that § 87(2)(b) had an injury in 2008 that featured neck and back symptoms.

§ 87(2)(b)

On § 87(2)(b), § 87(2)(b) was diagnosed with Posttraumatic headaches and possible post-concussion syndrome.

NYPD Documents

Arrest Report

On August 2, 2013, at 2:16 p.m., § 87(2)(b) was arrested for assault to cause physical injury. The arresting officer was PO David Babayev, Tax ID 929425 and the approving supervisor was Sergeant Choi, Tax ID 922110. Report states § 87(2)(b) started yelling and screaming and then hit the complainant in the face with a set of keys in her hand, causing scratches and bruises on the complainant's lip (encl. 11A-11C).

AIDED

List § 87(2)(b) as sustaining a bruise and redness to her left elbow. This document was prepared by PO Babayev (encl. 11A-11E).

Medical Treatment of Prisoner Form

States that § 87(2)(b) had pain in her right arm and left ribs, and lists PO Gonzalez, Tax ID 950577 as the officer that accompanied § 87(2)(b) to the hospital (encl. 9F-9H).

Command Log

§ 87(2)(b)'s arrest was logged in the 104th Precinct stationhouse at 6:40 p.m. (encl. 15A). Her condition was listed as "scratch on elbow."

Status of Civil Proceedings

- A Notice of Claim was not filed as of November 8, 2013, three months after the date of the incident (encl. 17A).

Civilian Criminal History

- As of March 25, 2014, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) (encl. 18A-18B).

§ 87(2)(b)

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Subject Officer CCRB History

- PO Ku has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 1A).

Conclusion

Identification of Subject Officer

- § 87(2)(b) originally identified the officer who rode with her to the hospital, PO Shubella, as the subject officer. However, the force alleged occurred after § 87(2)(b) had had x-rays done. According to § 87(2)(b)'s medical records, the x-rays were ordered at 3:50 p.m., and were not interpreted by the radiologist until 4:41 p.m. PO Ku stated that he arrived at the hospital at 4:00 p.m. Further, PO Ku acknowledged using physical force on § 87(2)(b)

Investigative Findings and Recommendations

Allegation A –Force: PO Jonathan Ku used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Ku picked her up off the ground and threw her into a medical cart that was parked beside a wall in the § 87(2)(b) Hospital's Emergency Department. § 87(2)(b) alleged that she landed on her right arm and rib area, and suffered a dislocated shoulder, a broken rib, and pain to her neck, feet and arms. PO Ku denied throwing § 87(2)(b) and stated that when she began to yell and walk away, he only restrained her by holding her with the front part of her body pressed against a wall.

§ 87(2)(b) was engaged in the altercation that spurred her arrest, before the incident occurred, which caused some injuries that § 87(2)(b) could not specify. § 87(2)(b)'s medical records are not consistent. § 87(2)(b) was diagnosed, while at § 87(2)(b) Hospital, with chest and elbow contusions, neck strain and abrasions. This is consistent with the injuries on the triage papers, suggesting these injuries came from her altercation prior to going to the hospital. On § 87(2)(b), doctors at § 87(2)(b) Hospital noted that she had full range of motion without pain. X-rays of § 87(2)(b)'s ribs and shoulders were not done until § 87(2)(b), and were ultimately inconclusive. § 87(2)(b) refused further tests.

Though the photographs provided by § 87(2)(b) do not show her ribs, they show no bruising to her right arm or face, offering little to support her claims of injuries from either altercation. Twenty staff members of § 87(2)(b) Hospital's Emergency Department were contacted, and none of them remembered the incident or § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
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